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SECURITY COUNCIL
Forty-eighth year

Letter dated 8 June 1993 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the comments of the Government of the Federal Republic of Yugoslavia in connection with the fifth report on the situation of human rights in the territory of the former Yugoslavia (S/25792), prepared by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights (see annex).

I should be grateful if you would have the text of the present letter and its annex circulated as an official document of the General Assembly, under item 115 (c) of the preliminary list, and of the Security Council.

(Signed) Dragomir DJOKIC
Ambassador
Chargé d'affaires a.i.

* A/48/50.

ANNEX

Comments of the Government of the Federal Republic of Yugoslavia on the fifth report on the situation of human rights in the territory of the former Yugoslavia, prepared by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights

I

We note with regret that once again the report of Mr. T. Mazowiecki is characterized by a one-sided presentation of developments and insistence on the almost exclusive responsibility of the Serb side for the situation in Bosnia-Herzegovina and that of the FR of Yugoslavia for the situation in Kosovo and Metohija. Such a discriminatory approach not only creates mistrust and dissatisfaction but also ill-serves the main purpose of the appointment of the Special Rapporteur - an objective and impartial reporting which should contribute to conflict prevention. However, Mr. Mazowiecki's report primarily offers a platform in support of the pre-conceived political considerations.

The above conclusion is confirmed, inter alia, by the methodology of the Special Rapporteur. It is characterized by inconsistency, incoherence, incomplete and out-of-context data, fragmented reporting, selective choice of events, etc. Such a manner distorts the essence of things, the import, contents and meaning of notions, definitions and qualifications.

An attempt will be made to corroborate the above claims by facts, on the basis of the fifth and previous reports (the methodology pattern being invariably the same).

SELECTIVE CHOICE OF EVENTS - SOURCES OF INFORMATION

As a rule, whenever Serb losses are in question, i.e. the suffering of the civilian population in Bosanski Brod - Sijekovac (see third report, para. 4), exodus of Serbs, destruction of monuments on the left bank of the Neretva river (Klepci, Tasovčići, Prebilovci, Mostar, etc.), the Special Rapporteur fails to include them in his reports. In other words, by resorting to the proven maxim quod non est in scriptum non est in mundo he attempts to present the preset picture of reality.

In this report, a case in point is the slaughter of the Serb population in eastern Bosnia during the Moslem offensive in December 1992 and January 1993. The Special Rapporteur made use of the already proven and effective method, i.e. that it was not possible to visit the area and collect authentic information.

INCOMPLETE AND OUT-OF-CONTEXT DATA

Consistent following of reports creates an inevitable impression that it is the attitude of the Rapporteur that decides whether an information would assume the character of only an introductory premise, conclusion, recommendation or a fact. This can partly be attributed to the confusing way of reporting, a lack of adequate methodology, and partly to the channelling of information, however, there is no doubt that a balanced, comprehensive and true picture of the situation and developments is not possible to present in such a way.

For example, there can be no rational reason for placing the information that the Moslem authorities refused to allow the evacuation of the civilian population from Srebrenica in the Conclusions (para. 88) rather than in the very detailed and exhaustive description of the event.

A similar method has been applied to the recent Moslem-Croatian hostilities. Relevant information is contained in the Introduction (para 4 (a) & (c)) and in the Recommendations (para. 95). We wish to underline, however, that at the time of the preparation of this report and its submission to the United Nations, there existed absolutely solid and irrefutable evidence (visit by Gen. Morillon to Vitez between 19 and 20, statements by members of the Cheshire regiment who witnessed the massacre of Moslems, BBC photo reports) which undoubtedly enabled the Special Rapporteur to describe these events, at least in general. True, it can be noted that, in this particular case, direct reports by his independent field observers were not available but it is also a fact that the Special Rapporteur, in some other instances used "credible information" obtained from other such sources (third report, para. 33) when the alleged crimes of the Serb side were involved.

UNCRITICAL ACCEPTANCE OF INFORMATION

Finally, for the first time, this report includes the description of the situation of the Serb population in the besieged towns held by Moslem authorities. We wish to note that the unpredecented State-sponsored terrorising of these people in Sarajevo, Zenica, Bihać and elsewhere has not yet drawn the attention of the Special Rapporteur. However, we also wish to draw the attention to a shortcoming of this report. It does not mention the true and well-known reason why the Serbs wish to leave the town: to save their lives, honour and dignity, to get free, but official statements of the Moslem authorities are mentioned such as health reasons, reunion of families, citizenship and the forced mobilization as the main reason.

INCONSISTENT USE OF NOTIONS, TERMS, CLASSIFICATIONS, ETC.

Different and even diametrically opposed terms are used for the same events and developments. Thus, for example, it is claimed that the Serbs possessing arms took up arms against the Government while the same fact pertaining to the Moslems is described as armed resistance. In other words, the Special Rapporteur does not qualify the internationally clearly defined situations and behaviours with the generally valid terms, which is the obvious obligation and an impartial observer. We point to the detrimental effect of such an approach and to dangerous implications it can have for loyalty, military service obligation, etc. Suffice it to recall that forcing someone to join enemy armed formations is a war crime against the civilian population.

II

As to concrete allegations relating to the FR of Yugoslavia, we wish to draw the attention to the following.

1. Mr. Mazowiecki states that the main reason for non-submission of an adequate report on the suffering of Serbs in eastern Bosnia during the Moslem offensive in December 1992 and January 1993 is that the field staff was prevented from having access to the area by new visa regulations, and/or because no reply was received from the Yugoslav Government to that effect.

We wish to stress that the Special Rapporteur and members of his mission were duly informed, through the correspondence between him and the Permanent Mission of the FR of Yugoslavia to the United Nations Office at Geneva, that, by law, information on their precise mandate and activities was required prior to granting consent to the entry of the mission's representatives into the country. This was particularly important in view of the fact that, as of late, there have been numerous missions, observers and reporters in Yugoslavia with similar tasks and that they are all accorded the same treatment. In the last six months alone, for example, 76 various missions and 800 foreign reporters visited Kosovo.

Furthermore, since Mr. Mazowiecki stresses in the report that no observer was allowed access to eastern Bosnia, we would like to point out that in the above mentioned correspondence the position of the

Yugoslav Government was emphasized that all such and other questions regarding directly the territory in Bosnia-Herzegovina under the control of the Serb forces should be resolved in direct contacts with these Serb authorities and that this is not within the jurisdiction of the Government of the FR of Yugoslavia.

New visa regulations in the FR of Yugoslavia were introduced on 11 March 1993, i.e. long before any contacts between the Special Rapporteur and the Yugoslav Government (the Special Rapporteur approached the Yugoslav Mission in Geneva for the first time on 30 March 1993). The new visa regulations resulted from the unilateral breaches by many countries of the agreements on visa abolition so that the principle of reciprocity was applied.

Therefore, it is clear from all the above considerations that there is no basis for the allegation that new visa regulations prevented field staff to collect timely and objective information on the ground. It is rather the deliberate ignoring of the new reality with respect to the entry to the FR of Yugoslavia and, possibly, the belated submission of visa applications, so that all the blame cannot be attributed to the Yugoslav side alone.

As far as the case of Ejup Statovci is concerned, it is true that he had been tried and that he served his sentence pronounced by the Municipal Court for Petty Offences in Pristina for the criminal act under Art. 18, para. 1, subpara. 1, of the Law on Public Law and Order of the Autonomous Province of Kosovo and Metohija. It is equally true, however, that Statovci was tried also for the ultimatum he sent to the authorities of the Republic of Serbia on 10 January 1992 requesting instant resumption of the work of the University in Pristina according to the curricula of the so-called "Republic of Kosovo". Besides, he also requested that all Serb students be removed from the University whereby an ethnically pure University would be created in contravention not only of the laws in force in the Federal Republic of Yugoslavia, but also of the norms of international law regulating the status and rights of national minorities.

Statovci had taught at the Faculty of Law of the University in Pristina until the Democratic League of Kosovo issued an order to its members to give up their legal regular jobs and called on students to stop attending classes. From that time on, he has been one of the most fervid organizers of the parallel school system in Kosovo and Metohija. Consequently, he appointed deans of illegal Faculties and organized parallel classes and exams in private houses and apartments. The students of this under-ground University were issued "diplomas" with the emblem of the "Republic of Kosovo". This is telltale proof that Statovci refuses to recognize the legal authorities of the Republic of Serbia and the Federal Republic of Yugoslavia, whereby he abets the secessionist aspirations of a part of the Albanian national minority in the Federal Republic of Yugoslavia.

E. Statovci is now free since his term in prison expired on 24 April 1993.